

CALIFORNIA GAMBLING CONTROL COMMISSION

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DATE: April 23, 2003

TO: Gambling Control Commission

FROM: Gary Qualset, Deputy Director
Licensing and Compliance Division

SUBJECT: Revenue Sharing Trust Fund Report of Distribution of Funds to Non-Compact Tribes for the Quarter Ended March 31, 2003

ISSUE: *Can the Gambling Control Commission (Commission) make a current quarterly distribution from the Indian Gaming Revenue Sharing Trust Fund (IGRSTF) to each eligible Non-Compact Tribe for the quarter ended March 31, 2003?*

The Commission has a fiduciary responsibility for the IGRSTF as Trustee of the IGRSTF per all of the Tribal-State Gaming Compacts (Compacts) as noted in Section 4.3.2(a)(ii). Additionally, the Commission shall make distributions in accordance with Sections 4.3.2.1(a) and (b).

The IGRSTF serves as the depository for payments made by Tribes that acquire and maintain gaming device licenses and interest income earned by the IGRSTF. The process for allocating licenses and the awarding thereof is outlined in Section 4.3.2.2. This Section also provides for the amounts that shall be paid for license fees.

To date, the Commission has approved the distribution of approximately \$75.6 million from the IGRSTF covering ten fiscal quarters from July 1, 2000 through December 31, 2002. Distributions from the IGRSTF were brought current for the quarter ended June 30, 2002. Approval and disbursement of this quarterly distribution will represent the fourth full and regular quarterly distribution from the IGRSTF over the past twelve-month period. The current distribution that is being proposed will make a distribution of the actual amounts in the IGRSTF for the quarter ended March 31, 2003, leaving a balance in the IGRSTF of less than \$1.00.

As shown in Exhibit 1, all eligible tribes will be receiving \$50,358.63 for this distribution. Tribal license fees and payments, plus interest earnings (\$219,701.36), received and deposited into the IGRSTF for the quarter ended March 31, 2003 amounted to approximately \$3.7 million. Seventy-five tribes are listed in Exhibit 1 as eligible Non-Compact recipient tribes (pending receipt of outstanding eligibility certification forms, if any). Thus, the equal share distribution amount per tribe for this quarter is as noted above.

At the end of the calendar quarter for distribution and as of the close of business on March 31, 2003, the amount of outstanding license fee payments due into the IGRSTF was approximately \$5,458,000. If the total license fee payments due at the end of this quarter had been paid into the IGRSTF, recipient tribes would have received \$72,786.25 in additional moneys along with this quarter's distribution. The Commission makes quarterly distributions on a cash basis based on the amount of available funds in the IGRSTF each quarter. Total license fee payments outstanding and due for the quarter ended March 31, 2003 are summarized in the table on the following page:

Table 1		
Indian Gaming Revenue Sharing Trust Fund License Fee Payment Aging Schedule as of March 31, 2003		
Quarters in Arrears	Number of Tribes	Amount of License Fees Due
1 or less	8	2,455,802.33
2	2	2,272,425.00
More than 2	1	730,741.74
Totals	11	\$5,458,969.07

Compact Section 4.3.2.3 provides that a tribe shall not conduct any gaming activity authorized by the Compact if the tribe is more than two quarterly contributions in arrears in its license fee payments into the IGRSTF. The Commission, as trustee, sends out regular quarterly invoices for the payment of license fees prior to the beginning of each quarter. Additionally, the Commission follows standard collection practices, which includes noticing those of past due amounts, and has initiating procedures if action is needed under the provisions of Compact Section 4.3.2.3 noted above.

It is also being recommended that this distribution be on a conditional basis pending receipt of certification of the maximum number of gaming devices operated during the quarter by each tribe that is required to submit a completed certification form. Tribes that are required to complete the certification form are those tribes that entered into Compacts with the State of California and have operated less than three hundred-fifty gaming devices during the previous quarter.

Pursuant to Item 0855-101-0366 of the Budget Act of 2002, \$46 million was appropriated for distribution to noncompact tribes. Per Provision 3 of Item 0855-101-0366, the following items are requested according to control language as part of any request to augment Item 0855-101-0366. Although no augmentation is being requested with this distribution, we are submitting the following report information voluntarily.

1. The Methodology for Determining a Non-Compact Tribe

Per Section 4.3.2(a)(i) of the Compact, the term "Compact Tribe" and "Non-Compact Tribe" is defined as:

A "Compact Tribe" is a tribe having a compact with the State that authorizes the Gaming Activities authorized by this Compact. Federally-recognized tribes that are operating fewer than 350 Gaming Devices are "Non-Compact Tribes." Non-Compact Tribes shall be deemed third party beneficiaries of this and other compacts identical in all material respects. A Compact Tribe that becomes a Non-Compact Tribe may not thereafter return to the status of a Compact Tribe for a period of two years becoming a Non-Compact Tribe (sic).

For this distribution from the IGRSTF, the Commission used the following procedures as the methodology for determining if a tribe is a Non-Compact Tribe:

- A. Identify all tribes in the State of California that are Federally-recognized based on information obtained from the U. S. Department of Interior, Bureau of Indian Affairs, and a legal opinion received from the State Attorney General's Office.

- B. Request that each Non-Compact Tribe that entered into Compacts with the State that is to receive a distribution certify the maximum number of gaming devices operated during the quarter by completing and filing a Tribal-State Compact Gaming Device Certification Form (CGCC-C2002.03). Receive this form from each eligible tribe in accordance with the streamlined verification procedure implemented by the Commission. This form was mailed to Tribes for completion and filing and is also available of the Commission's website at www.cgcc.ca.gov.
- C. Classify all tribes identified in step A based on the information obtained in Step B as either: 1) Compact Tribes operating 350 or more gaming devices, 2) Non-Compact Tribes as defined by the Compact, or 3) non-compacted gaming tribes.
- D. Classify all Non-Compact Tribes identified in part 2) of step C as eligible Non-Compact non-gaming tribes and Non-Compact gaming tribes that have submitted the requested certification form to the Commission if required.
- E. Prepare a list of Non-Compact Tribes based on the most recent information reported to the Commission.

2. A list of the Non-Compact Tribes Identified Based on the Commission's Methodology

A list of all Non-Compact Tribes as identified by the methodology identified in item 1 above is attached as Exhibit 1.

3. A Trust Fund Condition Report Including the Amount of Revenue Received From Each Compact Tribe

A trust fund condition statement for the IGRSTF through March 31, 2003, for fiscal year 2002-03 is attached as Exhibit 2. A listing of the unaudited amount of revenue from each Compact Tribe as received by the Commission is attached as Exhibit 3.

4. The Amount of Funds to be Distributed to Each Non-Compact Tribe

The amount of funds to be distributed to each Non-Compact Tribe is listed in Exhibit 1 that is attached. The recommended distribution to each tribe listed in Exhibit 1 is subject to verification of eligibility and receipt of a Tribal-State Compact Gaming Device Certification Form (CGCC-C2002.03) if required.

RECOMMENDATION: *It is recommended that the Commission approve the current full quarterly distribution of approximately \$3.7 million of all payments made by tribes and any interest income received by the IGRSTF during the most recent quarter ended March 31, 2003, to the listed tribes that are determined to be eligible Non-Compact Tribes in accordance with the Commission's identified methodology for determining a Non-Compact Tribe as shown in Exhibit 1 attached to this report.*

Exhibit 1**Non-Compact Tribes Eligible to Receive a Distribution From the IGRSTF (Based on the Commission's Methodology) and the Amount of Funds Recommended for Distribution**

Non-Compact Indian Tribe	Amount of Funds Recommended to be Distributed
Alturas Indian Rancheria	\$50,358.63
Augustine Band of Mission Indians	50,358.63
Bear River Band of the Rohnerville Rancheria	50,358.63
Benton Paiute Reservation	50,358.63
Big Lagoon Rancheria	50,358.63
Big Pine Reservation	50,358.63
Big Sandy Rancheria	50,358.63
Blue Lake Rancheria	50,358.63
Bridgeport Paiute Indian Colony	50,358.63
Buena Vista Rancheria	50,358.63
Cahto Indian Tribe of the Laytonville Rancheria	50,358.63
Cahuilla Band of Mission Indians	50,358.63
California Valley Miwok Tribe	50,358.63
Cedarville Rancheria	50,358.63
Chemehuevi Indian Tribe	50,358.63
Cher-Ae Heights Indian Community	50,358.63
Chicken Ranch Rancheria	50,358.63
Cloverdale Rancheria	50,358.63
Cold Springs Rancheria	50,358.63
Colorado River Indian Tribes	50,358.63
Cortina Rancheria	50,358.63
Cuyapaipe Community of Mission Indians	50,358.63
Death Valley Timbi-Sha Shoshone Tribe	50,358.63
Dry Creek Rancheria	50,358.63
Elem Indian Colony	50,358.63
Elk Valley Rancheria	50,358.63
Enterprise Rancheria	50,358.63
Fort Bidwell Indian Community	50,358.63
Fort Independence Reservation	50,358.63
Fort Mojave Indian Tribe	50,358.63
Graton Rancheria	50,358.63
Greenville Rancheria	50,358.63
Grindstone Rancheria	50,358.63
Guidiville Rancheria	50,358.63
Hoopa Valley Tribe	50,358.63

Exhibit 1 (Continued)**Non-Compact Tribes Eligible to Receive a Distribution From the IGRSTF (Based on the Commission's Methodology) and the Amount of Funds Recommended for Distribution**

Non-Compact Indian Tribe	Amount of Funds Recommended to be Distributed
Inaja-Cosmit Mission Indians	50,358.63
Ione Band of Miwok Indians	50,358.63
Jamul Indian Village	50,358.63
Karuk Tribe of California	50,358.63
La Jolla Band of Mission Indians	50,358.63
La Posta Band of Mission Indians	50,358.63
Lone Pine Reservation	50,358.63
Los Coyotes Band of Cahuilla Indians	50,358.63
Lower Lake Rancheria	50,358.63
Lytton Rancheria	50,358.63
Manchester Point Arena Rancheria	50,358.63
Manzanita Mission Indians	50,358.63
Mechoopda Indian Tribe	50,358.63
Mesa Grande Mission Indians	50,358.63
Northfork Rancheria	50,358.63
Paiute Bishop Community	50,358.63
Picayune Rancheria	50,358.63
Pinoleville Reservation	50,358.63
Pit River Tribe	50,358.63
Potter Valley Rancheria	50,358.63
Quartz Valley Indian Community	50,358.63
Quechan Tribe of Fort Yuma	50,358.63
Ramona Mission Indians	50,358.63
Redwood Valley Rancheria	50,358.63
Resighini Rancheria	50,358.63
Round Valley Indian Tribe	50,358.63
Santa Rosa Band of Cahuilla Mission Indians	50,358.63
Santa Ysabel Mission Indians	50,358.63
Scotts Valley Band of Pomo Indians	50,358.63
Sherwood Valley Pomo Indians	50,358.63
Shingle Springs Rancheria	50,358.63
Smith River Rancheria	50,358.63
Stewarts Point Rancheria	50,358.63
Susanville Indian Rancheria	50,358.63
Table Bluff Reservation	50,358.63

Exhibit 1 (Continued)**Non-Compact Tribes Eligible to Receive a Distribution From the IGRSTF (Based on the Commission's Methodology) and the Amount of Funds Recommended for Distribution**

Non-Compact Indian Tribe	Amount of Funds Recommended to be Distributed
Torrez-Martinez Mission Indians	50,358.63
United Auburn Indian Community	50,358.63
Upper Lake Band of Pomo Indians	50,358.63
Washoe Tribe of Nevada & California	50,358.63
Yurok Tribe of the Yurok Reservation	50,358.63
Total	\$3,776,897.25¹

Footnotes:

1. The total amount of distribution to each tribe is subject to audit and verification by the Commission. Future distributions may be adjusted for any overpayments or underpayments that may have been made. If a tribe is subsequently determined to be a "Compact Tribe" by definition of the Compact, and is therefore not eligible for future distributions, any overpayments that may be made are subject to refund by a tribe(s) to the Commission. The above distributions are being recommended for distribution on a conditional basis and are subject to verification of eligibility. Distributions will only be made after receipt of a Tribal-State Compact Gaming Device Certification Form (CGCC-C2002.03) that indicates eligibility in accordance with the terms of the Compact.

EXHIBIT 2

CALIFORNIA GAMBLING CONTROL COMMISSION
0366 - INDIAN GAMING REVENUE SHARING TRUST FUND
FUND CONDITION STATEMENT
For the nine months ended March 31, 2003
Cash Basis

BEGINNING BALANCE	\$ 17,546,747.32
REVENUES AND TRANSFERS	
Revenues:	
150300 Income from surplus money investments	514,707.11
216900 License fees held in trust	<u>23,566,006.03</u>
Totals, Revenues	\$ <u>24,080,713.14</u>
Totals, Resources	\$ 41,627,460.46
EXPENDITURES	
Disbursements:	
	<u>36,725,818.51</u>
Totals, Expenditures	\$ <u><u>36,725,818.51</u></u>
FUND BALANCE, prior to distribution	\$ 4,901,641.95
Disbursements, pending distribution	3,776,897.25
Previously approved funds held on behalf of 2 tribes for future issuance pending resolution of tribal leadership	<u>1,124,744.64</u>
FUND BALANCE, after distribution	\$ <u><u>0.06</u></u>

Exhibit 3**Unaudited Amount of Revenue From Each Compact Tribe Received by the Commission Through March 31, 2003 for the Fiscal Year Ending June 30, 2003**

Compact Tribe	Revenue Received
Agua Caliente Band of Cahuilla Indians	\$411,862.50
Alturas Indian Rancheria	0.00
Augustine Band of Mission Indians	0.00
Barona Band of Mission Indians	322,155.63
Bear River Band of the Rohnerville Rancheria	0.00
Berry Creek Rancheria	0.00
Big Sandy Rancheria	0.00
Big Valley Rancheria	0.00
Blue Lake Rancheria	0.00
Buena Vista Rancheria	0.00
Cabazon Band of Mission Indians	820,000.00
Cahto Indian Tribe of the Laytonville Rancheria	0.00
Cahuilla Band of Mission Indians	0.00
Campo Band of Diegueno Mission Indians	0.00
Chemehuevi Indian Tribe	0.00
Cher-Ae Heights Indian Community	0.00
Chicken Ranch Rancheria	0.00
Colusa Rancheria	312,500.00
Cuyapaipe Band of Mission Indians	459,013.40
Dry Creek Rancheria	1,943,246.58
Elem Indian Colony	0.00
Elk Valley Rancheria	0.00
Hoopa Valley Tribe	0.00
Hopland Band of Pomo Indians	593,750.00
Jackson Rancheria	718,750.00
Jamul Indian Village	0.00
La Jolla Band of Luiseno Indians	0.00
Manchester Point Arena Rancheria	0.00
Manzanita Band of Mission Indians	0.00
Middletown Rancheria	0.00
Mooretown Rancheria	0.00
Morongo Band of Mission Indians	0.00
Paiute Bishop Tribe	0.00
Pala Band of Mission Indians	4,615,659.25
Paskenta Band of Nomlaki Indians	31,250.00
Pauma/Yuima Band of Mission Indians	0.00
Pechanga Band of Mission Indians	0.00

Exhibit 3 (Continued)	
Unaudited Amount of Revenue From Each Compact Tribe Received by the Commission Through March 31, 2003 for the Fiscal Year Ending June 30, 2003	
Compact Tribe	Revenue Received
Picayune Rancheria	1,671,469.18
Pit River Tribe	0.00
Quechan Indian Nation	0.00
Redding Rancheria	0.00
Resighini Rancheria	0.00
Rincon Band of Mission Indians	0.00
Robinson Rancheria	275,000.00
Rumsey Rancheria	820,000.00
San Manuel Band of Mission Indians	1,076,197.81
San Pasqual Band of Diegueno Indians	1,216,171.23
Santa Rosa Indian Community	2,868,951.51
Santa Ynez Band	589,039.04
Sherwood Valley Rancheria	0.00
Shingle Springs Rancheria	812,500.00
Smith River Rancheria	0.00
Soboba Band of Mission Indians	434,855.59
Susanville Indian Rancheria	0.00
Sycuan Band of Mission Indians	494,218.04
Table Mountain Rancheria	0.00
Tule River Reservation	937,500.00
Tuolumne Rancheria	0.00
Twenty-Nine Palms Band of Mission Indians	1,009,416.27
United Auburn Indian Community	1,132,500.00
Viejas Band of Mission Indians	0.00
Total	\$23,566,006.03 ¹

Footnotes:

1. See Exhibit 2 for a copy of a trust fund condition statement for the Fund for the nine months ended March 31, 2003, which is the most recent quarter-end for which a distribution has been recommended for payment. Included in the total receipts available for distribution is interest of \$514,707.11.